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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RICHARD ZEITLIN, ADVANCED
TELEPHONY CONSULTANTS, MRZ
MANAGEMENT, LLC, DONOR
RELATIONS, LLC, TPFE, INC., AMERICAN
TECHNOLOGY SERVICES, COMPLIANCE
CONSULTANTS, CHROME BUILDERS
CONSTRUCTION, INC., UNIFIED DATA
SERVICES;

Plaintiffs,

v.

BANK OF AMERICA, N.A. and JOHN AND
JANE DOES 1-100,

Defendants.

Case No.: 2:18-cv-01919-RFB-DJA

**PARTIES' REQUEST AND
STIPULATION TO TAKE
DEPOSITIONS OUTSIDE OF
DISCOVERY PURSUANT TO RULE
16(b)(4)**

Plaintiffs Richard Zeitlin, Advanced Telephony Consultants, MRZ Management, LLC, Donor Relations, LLC, TPFE, Inc., American Technology Services, Compliance Consultants, Chrome Builders Construction, and Unified Data Services ("Plaintiffs") and Defendant Bank of America, N.A. ("BANA" and together with Plaintiffs the "Parties" and each a "Party"), through their counsel of record, request that this Court grant the Parties leave to take certain depositions outside of the discovery period. The purpose of this stipulation is solely designate certain

1 depositions to be taken outside the discovery period and this is the Parties first request to take
 2 such depositions after the close of discovery. The Parties do not propose extending any discovery
 3 deadlines.¹ This request is being made before the close of discovery, which closes on February
 4 15, 2021. ECF No. 87.

5 Under Rule 16(b)(4) of the Federal Rules of Civil Procedure, “a schedule may be
 6 modified only for good cause and with the judge’s consent.” As detailed below, the Parties
 7 intend to take the depositions of five witnesses outside of the discovery period, but no later than
 8 March 15, 2021. The reason for this is to accommodate subpoenaed third parties who have
 9 indicated that they are not available prior to the close of discovery and to accommodate Plaintiffs’
 10 counsel who are ill (including one with COVID). For these reasons, there is good cause under
 11 Rule 16(b)(4) for the Parties to be permitted to take these depositions after the close of discovery.

12 On January 19, 2021, BANA served Plaintiffs’ former employee, Ramona Brown, with a
 13 deposition subpoena, setting her deposition for February 10, 2021 at 9:00 a.m. Pacific Time. On
 14 January 21, 2021, BANA served Plaintiffs’ client, William Pollock, with a deposition subpoena,
 15 setting his deposition for February 10, 2021 at 1:00 p.m. Pacific Time. On January 26, 2021,
 16 counsel for Brown and Pollock requested that those depositions be moved to February 18, 2021 to
 17 accommodate the schedules of counsel and the deponents.

18 Plaintiffs’ counsel, Thomas Kimble and Patrick Kane, are also ill and requested that the
 19 expert depositions of Steve Brubaker and Jeffrey Kinrich, currently scheduled for February 2,
 20 2021 and February 3, 2021 respectively, be rescheduled to outside the close of discovery, date to
 21 be determined. For the same reason, Plaintiffs’ counsel requested that 30(b)(6) and fact
 22 depositions of BANA employee Jean Miller, currently scheduled for February 5, 2021, be
 23 rescheduled outside the close of discovery, date to be determined. Discovery closes February 15,
 24 2021.

25 For these reasons, the Parties stipulate and agree to take the deposition of Ramona Brown
 26 on February 18, 2021 at 9:00 a.m. Pacific Time, or another date convenient for the Parties and

27 ¹ Although this is the first request to take depositions outside the discovery period, this Court has
 28 extended discovery six times. ECF No. 87.

deponent on or before March 15, 2021. The Parties stipulate and agree to take the deposition of William Pollock on February 18, 2021 at 1:00 p.m. Pacific Time, or another date convenient for the Parties and deponent on or before March 15, 2021. The Parties further stipulate and agree to take the depositions of Steve Brubaker, Jeffrey Kinrich, and Jean Miller at a time and date convenient for the Parties and deponents on or before March 15, 2021.

IT IS SO STIPULATED.

Dated: January 28, 2021

DATED: January 28, 2021

THE BERNHOFT LAW FIRM, S.C.

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Attorneys for Plaintiffs

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE

DATED: January 29, 2021

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing **PARTIES' REQUEST AND STIPULATION TO TAKE DEPOSITIONS OUTSIDE OF DISCOVERY PURSUANT TO RULE 16(b)(4)** with the Clerk of the Court for the U. S. District Court, District of Nevada by using the Court's CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

DATED: January 28, 2021.

/s/ Maricris Williams
An Employee of Snell & Wilmer L.L.P.

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